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Attorneys for Defendants

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

ZHENXIANG LI,	)	No. C 07-3253 EDL
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
ALBERTO GONZALES, United States	)	ANSWER
Attorney General, U.S. Department of	)	
Justice; MICHAEL CHERTOFF, Secretary	)	
of the Department of Homeland Security;	)	
EMILIO T. GONZALEZ, Director of	)	
United States Citizenship and Immigration	)	
Services;	)	
Defendants.	)	

The Defendants hereby submit their answer to Plaintiff's Complaint for Writ in the Nature of Mandamus and Declaratory Judgment Under 28 U.S.C. § 1361.

1. Paragraph One consists of Plaintiff's characterization of this action for which no answer is necessary; however, to the extent a response is deemed to be required, the Defendants deny the allegations therein.

**PARTIES**

2. Defendants admit the allegations in Paragraph Two with the exception that Defendants deny the application at issue is "delayed."

3. Defendants deny the allegations in Paragraph Three.

ANSWER  
 No. C 07-3253 EDL

1 4. Defendants admit the allegations in Paragraph Four.

2 5. Defendants admit the allegations in Paragraph Five.

3 **JURISDICTION**

4 6. Paragraph Six consists of Plaintiff's allegations regarding jurisdiction, to which no  
5 responsive pleading is required; however, to the extent a responsive pleading is deemed necessary,  
6 Defendants deny the allegations in this paragraph.

7 **VENUE**

8 7. Paragraph Seven consists of Plaintiff's allegations regarding venue, to which no  
9 responsive pleading is required; however, to the extent a responsive pleading is deemed necessary,  
10 Defendants deny the allegations in this paragraph.

11 **INTRADISTRICT ASSIGNMENT**

12 8. Paragraph Eight consists of Plaintiff's allegations regarding intradistrict assignment, to  
13 which no responsive pleading is required.

14 **EXHAUSTION OF REMEDIES**

15 9. Paragraph Nine consist solely of Plaintiff's conclusions of law for which no answer is  
16 necessary, but insofar as answers may be deemed necessary, the allegations in Paragraph Nine are  
17 denied.

18 **CAUSE OF ACTION**

19 10. Defendants admit the allegations in Paragraph Ten.

20 11. Defendants admit the allegations in Paragraph Eleven.

21 12. Defendants admit the allegations in Paragraph Twelve with the exception that  
22 Defendants aver the Notice dated February 28, 2005 was provided to the Plaintiff at the conclusion  
23 of the interview. It explained why the application and petition was going to be continued.

24 13. Defendants admit the allegations in Paragraph Thirteen.

25 14. Defendants admit the allegations in Paragraph Fourteen.

26 15. Defendants deny the allegations in Paragraph Fifteen.

27 16. Defendants deny the allegations in Paragraph Sixteen.

28 17. Defendants are without sufficient information to admit or deny the allegations in

Paragraph Seventeen because the background checks are still pending.

18. Defendants admit that plaintiff made an inquiry on August 18, 2006 and June 25, 2007; however, Defendants deny the remaining allegations in this paragraph.

19. Defendants deny the allegations in Paragraph Nineteen.

20. Paragraph Twenty consist solely of Plaintiff's conclusions of law for which no answer is necessary, but insofar as answers may be deemed necessary, the allegations in Paragraph Twenty are denied.

21. Paragraph Twenty-One consist solely of Plaintiff's conclusions of law for which no answer is necessary, but insofar as answers may be deemed necessary, the allegations in Paragraph Twenty-One are denied.

22. Defendants are without sufficient information to admit or deny the allegations in Paragraph Twenty-Two.

#### **PRAYER**

23. Paragraph Twenty-Three consists of Plaintiff's prayer for relief, to which no admission or denial is required; to the extent a responsive pleading is deemed to be required, Defendants deny this paragraph.

#### **AFFIRMATIVE AND/OR OTHER DEFENSES**

All allegations not here before specifically admitted, denied, or modified are hereby denied. For further and separate answer, Defendants allege as follows:

#### **FIRST DEFENSE**

The Court lacks jurisdiction over the subject matter of this action

#### **SECOND DEFENSE**

The Complaint fails to state a claim against the Defendants upon which relief can be granted.

#### **THIRD DEFENSE**

No acts or omissions by the United States or its employees were the proximate cause of any injury or damages to the Plaintiff.

#### **FOURTH DEFENSE**

At all times alleged in the complaint, Defendants were acting with good faith, with

1 justification, and pursuant to authority.

2 **FIFTH DEFENSE**

3 The Defendants are processing the application referred to in the Complaint to the extent  
4 possible at this time. Accordingly, no relief as prayed for is warranted.

5 WHEREFORE, Defendants pray for relief as follows:

6 That judgment be entered for Defendants and against Plaintiff, dismissing Plaintiff's  
7 Complaint with prejudice; that Plaintiff takes nothing; and that the Court grant such further relief  
8 as it deems just and proper under the circumstances.

9 Dated: September 7, 2007

Respectfully submitted,

10 SCOTT N. SCHOOLS  
11 United States Attorney

12 /s/  
13 MELANIE L. PROCTOR  
14 Assistant United States Attorney  
15 Attorneys for Defendants  
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